FARAD CONSTITUTION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE,
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.247/2006

Bhaskarrao s/o Herambha Dhoke
...Versus...
Smt. Sumitabai wd/o Raghunandan Udasi (dead) through legal representative :
Shri Harish s/o Motilal Udasi

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's orders.	Court's or Judge's Orders

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CORAM:- A.B. CHAUDHARI, J.
DATED :- 16.06.2007.

Heard Shri Sangamnerkar, learned Counsel for the petitioner and Shri Chandurkar, learned Counsel for the respondent.

By this writ petition, the petitioner has challenged the order dated 31.3.1979. Learned Counsel for the petitioner submits that the writ petition which was filed earlier in the year 1980 bearing W.P. No.85/1980 was dismissed in default and the said order was not known to any of the parties. According to learned Counsel for the petitioner even the respondent – landlord was not knowing about the said order. He, therefore, submits that there is a

bonafide mistake on the part of the petitioner and, therefore, the present writ petition which questions the validity of the order dated 31.3.1979 should be entertained.

Shri Chandurkar, learned Counsel for the respondent vehemently opposed the present writ petition and submitted that primary responsibility of the petitioner is to prosecute his own petition by keeping watch on the progress of the writ petition. However, he failed to do so and merely because respondent-landlord was also not aware about the dismissal of earlier writ petition in default, the petitioner cannot be absolved of his responsibilities.

Having heard learned Counsel for parties and having gone through the entire record, I find that the petitioner did not at all bother over decades to know about the progress of his writ petition in the High Court. The conduct of the petitioner in not prosecuting writ petition negligently disentitles the petitioner to file fresh writ petition. Delay and latches on the part of petitioner desentitles the petitioner from prosecuting the present writ petition. It would not be in the interest of justice to allow reopening of the issues which stood closed way back in the year 1979. Further it is doubtful whether fresh writ petition can be entertained against the same order, which was challenged in the earlier writ petition, which was dismissed in default. For all the reasons, therefore, I do not find any

substance in the writ petition. The same is dismissed. No order as to costs.

JUDGE

ssw